

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EDUARDO C. RIBEIRO,	:	
Plaintiff,	:	
v.	:	Civil Action No. 1:21-cv-10170
HOME DEPOT, U.S.A., INC., d/b/a	:	
HOME DEPOT, Alias John Doe,	:	
Defendant.	:	

NOTICE OF REMOVAL

Defendant Home Depot U.S.A., Inc. d/b/a Home Depot (“Home Depot”), by and through its undersigned counsel, hereby files its Notice of Removal of this action (the “Action”) from the Superior Court for the County of Bristol, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts.

Home Depot appears for the purpose of removal only and for no other purpose, reserves all defenses and rights available to it, and states as follows:

1. On November 30, 2020, Plaintiff Eduardo C. Ribeiro (“Plaintiff”) commenced the Action in the Superior Court for the County of Bristol, Commonwealth of Massachusetts, as Civil Action No. 2073-CV-00825C. Plaintiff claims to have been shopping at Home Depot’s South Attleboro, MA location on or around December 12, 2017 when an improperly secured steel beam struck him in the head.

2. Plaintiff claims to have suffered post-concussion syndrome, chronic headaches, dizziness, anxiety, depression, right elbow pain and tendonitis.

3. Plaintiff also contends that he had to leave a construction job he worked for 13 years because of his injuries.

4. Due to his allegedly permanent bodily, mental and emotional injuries, the Plaintiff claims to have suffered \$450,000 in damages.

5. On January 12, 2021, Plaintiff served a copy of the Summons and Complaint upon the registered agent for Home Depot.

6. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Home Depot in the Action is attached as **Exhibit 1**.

7. Plaintiff resides in Fall River, MA.

8. Home Depot is a foreign corporation with a principal place of business in Atlanta, Georgia.

9. Plaintiff alleges damages in excess of \$75,000.

10. Pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction over the Action, which is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441 *et seq.*, because the amount in controversy exceeds \$75,000, exclusive of interests and costs. Additionally, there is complete diversity between the Plaintiff, who is a resident of Massachusetts, and Home Depot, which has its principal place of business in Georgia.

11. Home Depot has not yet filed a pleading in response to the Complaint and the Court has not issued any orders in the Action.

12. Pursuant to 28 U.S.C. § 1446(d), Home Depot will promptly file a copy of this Notice of Removal with the Clerk for the Superior Court for Bristol County, Commonwealth of Massachusetts, and will serve a copy of the same on counsel for Plaintiff and all other counselors of record.

WHEREFORE, Home Depot respectfully removes the Action now pending in the Superior Court for Bristol County, Commonwealth of Massachusetts, as Civil Action No. 2073-CV-00825C, to the United States District Court for the District of Massachusetts.

Defendant,
HOME DEPOT U.S.A., INC.,
By its Attorneys,

/s/ Caroline B. Lapish
Kelly Martin Malone (BBO No. 640048)
Caroline B. Lapish (BBO No. 669460)
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Dated: February 1, 2021

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2021 I caused a true copy of the foregoing document to be served by regular mail upon the following counsel of record:

Peter A Gemma, Esq.
Gemma Law Associates
231 Reservoir Avenue
Providence, RI, 02907
peter@gemmalaw.com

/s/ Caroline B. Lapish
Caroline B. Lapish